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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER	
SMITH, MARCUS	

ART UNIT	PAPER NUMBER
2619	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/648,592	GRAYSON ET AL.	
	Examiner	Art Unit	
	MARCUS R. SMITH	2619	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *08 August 2008*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-22* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-22* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment

1. The amendment filed on 8/08/08 has been considered but is sufficient to overcome the Maclean et al. and Ahvonen et al. references.

2. The indicated allowability of claims 7, 14, and 22 are withdrawn in view of the newly discovered written description requirement to the 35 U.S.C.112 first paragraph. Rejections based on the newly cited reference(s) follow.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 7, 14, 22, are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The applicant amended these claims to say the application server receives information from first and second application server, but there is no support for this limitation in the figures or specification.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6. Claims 1-6, 8-13, 15-20, and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Maclean et al. (US 7,072,961) in view of Ahvonen et al. (US 7,209,458) and Amin et al. (US 6,854,014).

With regard to claim 1, 8, and 15, Maclean teaches:

A method for managing a communications session with a device,

the method comprising the computer-implemented steps of:

establishing, with the device (mobile terminal), a communications session that supports a first quality of service level (column 6, lines 1-14: step 212);

receiving, at an application server, a request (QoS change request, 172), associated with the device, for a service provided by the application server (step 312: column 6, lines 3-40) ;

determining, based upon the request for the service and policy criteria (column 5, lines 38-50: The policy criteria is the user's service level agreements.), a second quality of service level to be supported by the communications session for the device (column 6, lines 38-44, the gateway 148, determines if the increase or decrease QoS level, a different QoS level than it started with in step 212, which makes any increase in QoS level the second QoS level.); and

Once the application server determines that it's okay to increase QoS level, it sends a positive response to the gateway, but it does not state what happens to layer 2 link. Thus, Maclean discloses all of the subject matter as described above except for modifying the communications session by causing a layer-2 change in a

communications link used for the communications session and that the application server determines the second quality of service level instead of its gateway.

Amin et al. teaches an application server that performs session management functions like changing of QoS and bandwidth, (column 5, lines 55-67). Then the application server sends a Resource Reservation Request to RAN (gateway) to establishes the communication link to support QoS (column 18, lines 25-45: see steps b, c, and e) in order to have a scalable flexible network for network monitoring (column 1, lines 35-55)

Therefore it would have been obvious to one having ordinary skill in the art at the time invention was made to have an application server to changing (determining) of QoS to perform session management as taught by Amin et al. in the system of Maclean in order to scalable flexible network. Thus the combination of Maclean and Amin application server now can perform the same network functions as the Maclean's gateway.

Ahvonen et al. teaches a policy control function (application server) that determines QoS level for a mobile device (column 7, lines 5-19) similar to Maclean's system. However the Ahvonen teaches the PCF send decision (response in Maclean's system) to the gateway, and the gateway enforces the QoS level determined by PCF by modify (upgrade or downgrade) the QoS level of the PDP context (column 7, lines 20-30) in order to consistently and efficiently control QoS allocation in a radio network (column10, lines 11-20).

Therefore it would have been further obvious to one having ordinary skill in the art at the time invention was made modify the communications session by causing a layer-2 change in a communications link used for the communications session, so that the communications session for the device supports the second quality of service level instead of the first quality of service level as taught by Ahvonen in the system of Maclean and Amin in order to consistently and efficiently control QoS allocation.

The examiner views the Maclean's application server transmitting a response to the QoS request message (column 6, lines 38-44) approving the new QoS level as the method for signaling by the application server to change the communications session with the device to support the second quality of service level.

with regard to claim 2, 9, and 16, Ahvonen teaches:

The method as recited in Claim 1, wherein:

the request for the service is received from a layer-2 gateway (column 7, lines 5-13); and

the signaling by the application server includes signaling the layer-2 gateway to change the communications session with the device to support the second quality of service level (column 7, lines 20-30).

with regard to claim 3, 10, and 17, Ahvonen teaches:

The method as recited in Claim 1, wherein causing a layer-2 change in a communications link used for the communications session, so that the communications session for the device supports the second quality of service level, includes causing the modification of session context data at a layer-2 gateway (column 7, lines 20-30).

with regard to claim 4, 11, and 18, Amin et al. teaches :

generating and sending to a layer-2 gateway an Authentication, Authorization, and Accounting Change of Authorization (CoA) Request command that specifies a quality of service profile for the second quality of service level (column 18, lines 30-45).

with regard to claim 5, 12, and 20, :

The method as recited in Claim 1, wherein the first and second quality of service levels each specifies an amount of bandwidth to be allocated to the device (Inherent. It well known in the art the different QoS level have different bandwidth in multimedia networks).

with regard to claim 6, 13, and 21, Maclean teaches :

The method as recited in Claim 1, wherein the device is a wireless device (mobile terminal see figure 1).

with regard to claim 19, Ahvonen:

The apparatus as recited in Claim 18, wherein the apparatus further comprises means for specifying the quality of service profile for the second quality of service level using a vendor-specific attribute containing the 3rd Generation Partnership Project 3GPP- Negotiated-QoS attribute (column 1, lines 47-55).

Response to Arguments

7. Applicant's arguments with respect to claims 1-22 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MARCUS R. SMITH whose telephone number is (571)270-1096. The examiner can normally be reached on Mon-Thurs: 7:30 am - 5:00 p.m. and every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wing Chan can be reached on 571 272-7493. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MRS 8/27/08

/Wing F. Chan/
Supervisory Patent Examiner, Art Unit 2619
9/2/08